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SUBJECT: GOVERNMENT PASSES COMPENSATION LAW FOR EVACUATED VILLAGERS;
NO IMPLEMENTATION YET

1. (SBU) Summary: Turkey's new law on compensation for citizens who have incurred damages due to terrorism and the fight against terrorism since 1987 calls for formation of province-level commissions to determine compensation. Implementing regulations for the law have not been announced, nor have any provincial commissions yet been formed. However, claimants are already flocking to human rights organizations with outlines of their claims. Information about how the government will fund implementation of this law, and, indeed, about what its total cost might be, is not readily available. Given these large question marks hanging over implementation, the law's eventual impact on village returns is hard to foresee. However, the law's language reflecting partial acceptance of State responsibility for the village evacuations of the 1990s is a welcome development to some human rights activists in the southeast. End Summary.

2. (U) Human rights contacts in Turkey's southeast have been following with great interest developments related to Law 5233 on the Compensation of Losses Stemming from Terror and the Fight Against Terror, passed on July 27, 2004. This law addresses the conditions under which citizens who incurred damages due to terrorism and the fight against terrorism will be compensated by the state. Early drafts of this law specified that it would cover losses incurred during the period July 19, 1987 through November 30, 2002 (i.e. during the state of emergency in the southeast). In its final version, however, the law is open-ended. It states that claimants for losses incurred since July 19, 1987 must apply within one year of the law's passage, and that those who incur losses from terrorism and anti-terrorism efforts from this day forward must apply for compensation within sixty days of the loss.

3. (U) The law calls for the formation of province-level commissions to evaluate claims and determine the level of compensation to be offered. Each commission will be chaired by a Deputy Governor and will comprise representatives from the Finance, Public Works and Resettlement, Agriculture and Village Affairs, Health, Industry and Trade Ministries. Damages previously compensated through court cases, insurance, or other sources will not be considered under this law. In addition, losses stemming from voluntary migration for other than security-related reasons will not be considered. The law specifies a formula for calculating compensation of injury, disability and death. (Note: Lawyers in two different cities offered the same estimate of the payment for the death of a family member, for example: 12.5 billion TL per person killed, or approximately USD 8400. Post cannot confirm this calculation. End note.) As for property losses, the law refers to value estimation principles outlined in the Nationalization Law 2942.

Diyarbakir Bar Input on Drafting

4. (SBU) Diyarbakir Bar Association representatives told poloff they had been able to give input as this law was being drafted, and they pointed to two specific improvements that resulted from their intervention. The Bar suggested to drafters that they use language referring to compensation for any result of terrorism, not just to damage resulting from terrorists. The law's resulting reference to damage from anti-terrorism measures, they claim, implies some degree of responsibility-taking by the state for the social upheaval in the region during the 1990s. (Note: In the past, activists claim, in order to get any kind of similar compensation when filing with the courts or provincial government, petitioners had to attest that their losses were due to PKK terrorist actions. End note.) In addition, initial drafts of the law said that those who had left their villages out of "negligence" would not be able to apply; thanks to Bar efforts, they say, the final version stated instead that those who "voluntarily left for reasons other than security" would not be compensated.

5. (SBU) Bar members in Diyarbakir who have kept the issue of returns high on their agenda, and who advocated successfully that a recent visit by EU Commissioner Verheugen include a visit to an evacuated village, see this law as a potentially important development. They told poloff they thought a Bar representative would be appointed to participate on each provincial commission. In late August, Diyarbakir contacts told poloff that implementing regulations were expected o/a September 15. On

October 4, however, they stated that the regulations had not yet been developed, nor had any provincial commissions as specified in the law been formed.

"Most Important Damage Won't Be Compensated"

16. (SBU) A number of rights activists in the region agreed that the law's wording implied the state was taking some degree of responsibility for damages during the 1990s, but they were quick to point out the law's weaknesses, as well. The Bingol HRA leader reported that he had lobbied for changes to the draft law, but that his suggestions were not considered. He said that material damage was the focus of the law, but that psychological damage was more important and more urgently required attention in Bingol, where the evacuations of the previous decade had affected 211 settlements with 2,920 families for a total of 17,113 residents. He had suggested the law offer a variety of psycho-social services to those who had suffered damages. Moreover, he added, there were 15 years of lost income to take into account when talking compensation. In addition to the houses these people lost, he argued, entire village infrastructures were lost, including schools, mosques, infirmaries, livestock pens, silos and sheds. Some people can go back to harvest now, he said, but there is no way to live in some of those places. "They should have consulted with us more," he said, "We could have contributed to people seeing return as a more attractive option." He argued that the government should be offering to build new structures to encourage return instead of paying out compensation.

They Want to Tell Their Stories

17. (SBU) After the law's passage, and in the absence of implementing regulations and a clear application process, many would-be applicants are working through the non-governmental Human Rights Association (HRA), and in some cases, local Bar Associations, as they prepare their claims for eventual submissions to the Commissions. As of early September, HRA-Siirt had received applications from residents of 50 villages, and HRA-Mardin says it has received some 1500 requests for assistance in preparing claims. The HRA has prepared a questionnaire that branches are administering to all those who approach the organization for assistance in applying for compensation. An HRA-Mardin branch representative said the organization hopes the surveys will be able to reach close to 80 percent of all those who had been evacuated from their villages, and collect more comprehensive information than ever before about the experiences of families who fled from the violence. "They don't just want money," said one human rights activist, "They want to tell their story." So far, said our Mardin contact, only about 5 percent of those filling out the survey indicated that the PKK was responsible for their dislocation; the rest, he said, were evacuated by the government.

But where will the money come from?

18. (U) One thing that may be slowing down the implementation of this law is the fact that no one can explain exactly where the money will come from to fund it. One Diyarbakir contact said that his impression is that the government is hoping to mostly provide in-kind compensation, such as materials for housing, but that past EU and World Bank projects offering iron, cement and sand as incentives to return were not found to be attractive. Some lawyers speculate that ultimately funding of the law's implementation will have to come from major external contributions, perhaps from the European Union.

19. (SBU) Comment: One human rights activist in Diyarbakir asserts that at least 75 percent of the estimated 3688 villages evacuated during the violence of the 1990s are still empty. The Compensation Law is not likely to lead to a rush back to villages any time soon, especially given the renewed violence in the region between security forces and PKK terrorists. Nevertheless, contacts in the southeast have been talking about this legislation for two months, and are waiting to see if something will come of it. Some see it as significant simply because the government, in the way the law is written, seems to be acknowledging some degree of responsibility for the evacuations of the 1990s. Others see value in the fact that these internally displaced persons will be able to "tell their stories" through the claims process, thus painting a more clear, collective picture of what happened in the region during those turbulent times. In the absence of funding and implementing regulations, however, the law's potential impact is difficult to envision. EU interest in the issue of village returns may eventually provide an impetus for the government to get down to the details on implementation of this law. End comment.